

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 15-03-2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Writ Appeal No. 706 of 2000

Central Organisation of
Tamil Nadu Electricity Employees,
represented by its Secretary,
13, Mosque Street, Madras-5. ... Appellant/Petitioner.

Vs.

Tamil Nadu Electricity Board,
represented by its Secretary,
800, Anna Salai, Chennai-2. ... Respondent/Respondent.

Appeal filed under Clause 15 of Letters Patent against the
order dated 16-10-1998 of Single Judge of this Court in Writ Petition No.
6792 of 1990.

WP.No.6792/1990: Petition presented under Article 226 of the Constitution
of India, to issue a Writ of Certiorarified Mandamus calling for the
records from the Respondent pertaining to the impugned Order in Ref.BP(FB)
No.24, Administrative Branch quash the Order dated 15.5.90 in so far as it
relates to extend the period of training by three years and consequently
direct the respondent to absorb the trainees regularly after the
completion of one year training.

Mr. D. Hariparanthaman:- For Appellant.

Mr. V. Radhakrishnan:- For Respondent.

JUDGMENT

(Judgment of the Court was delivered by P. Sathasivam, J.,)

Aggrieved by the order of learned Single Judge dated 16-10-1998 made in Writ Petition No. 6792 of 1990, Central Organisation of Tamil Nadu Electricity Employees through its Secretary has filed the above Writ Appeal. In the Writ Petition the said Employees Union questioned the order

in B.P (FB) No.24, Administrative Branch dated 15-5-1990 which enhanced the training period for three years though at the time of selection/appointment the same was for a period of one year.

2. According to the Secretary of the Union, based on their efforts and other interested parties, the respondent Board agreed to provide employment for each family whose land was acquired for the establishment of the Mettur Thermal Power Project. In pursuance of the said decision, the respondent Board in proceedings No.33, dated 13-6-89, agreed to provide employment for one person from each displaced family on a consolidated salary of Rs.500/- p.m. and with a further assurance that after a period of one year, they will be absorbed against regular vacancies. Similar provision was also made to provide employment to those persons whose near relatives died in harness. However, in the impugned proceedings i.e., in B.P. 24 dated 15-5-90, the Board issued an order enhancing the training period for three years. It is the claim of the Union that the respondent had not given any notice under Section 9-A of the Industrial Disputes Act, 1947; hence, it is not open to them to alter the condition of service of the workmen without following the procedure prescribed under the said Act.

3. The Board filed a counter affidavit stating that the members in the families displaced on account of acquisition of land are mostly un-educated or under-educated, therefore for want of vacancies in posts suitable for them, they could not be provided with employment assistance, however, in view of the compelling necessity the persons who lost their land were considered for appointment as trainees. Accordingly, the Board issued B.P.(PB) No. 33 Administrative Branch dated 13-6-1989 that members of displaced families whose cases are pending consideration shall be appointed on consolidated wages of Rs.500/- p.m. so that they could be absorbed in regular post later as and when they become eligible after satisfactory completion of one year training period. It is further stated that for establishment of North Madras Thermal Power Project, the Tamil Nadu Electricity Board has acquired lands and in order to get the areas released from the villagers for expediting the project work, the Board has agreed to provide them employment assistance relaxing the norms prescribed. On the understanding reached, the Board issued orders in B.P. (FB) No. 3 dated 25-1-90 that besides other conditions one male member in each family be appointed as Helper (Trainee) for a period of three years on consolidated wages at the rate of Rs.500/- p.m. for the first year; Rs.650/- p.m. for the second year; and Rs.800/-p.m. for the third year, and thereafter the training period namely one year has been re-examined and orders issued in B.P. dated 15-5-90 enhancing the period of 3 years as well as the rate of increased wages for every subsequent years to all the cases covered in B.P. Nos. 36 and 37 dated 25-6-1989 and B.P.No. 362 dated 11-7-1989.

4. The learned Single Judge while accepting the stand taken by the Electricity Board and taking note of the fact that the

appellant/petitioner could not get employment for want of vacancy in suitable post, hence they (dependants) have been appointed only as trainees and not as regular employees and that the appointments are on compassionate claim so that they could be appointed to regular posts on acquiring sufficient experience, upheld the stand taken by the Board and dismissed the writ petition; hence the Writ Appeal.

5. Mr. D. Hariparanthaman, learned counsel for the appellant employees Union, submitted that inasmuch as the respondent had not given any notice under Section 9-A of the Industrial Disputes Act, it is not open to them to alter the condition of service of the workmen without following the procedure under the said Act. He further submitted that the prescription of 3 years training period even for the post of Helper is arbitrary and the intention of the respondent is to exploit these workmen by paying low salary.

6. With reference to the above contention, we heard Mr. V. Radhakrishnan, learned counsel for the respondent. On going through the details furnished in the counter affidavit and considering the arguments of the learned counsel for the respondent-Board, we are unable to accept the contention of the learned counsel for the appellant for the following reasons.

7. It is not in dispute that in order to mitigate the sufferings of the persons who had given their lands for the project of the Electricity Board so also expediting the project by getting the required land from the persons concerned, the Board decided to provide employment assistance to them. Similar provision was also made in respect of persons who died in harness in the existing vacancies subject to other conditions. It is true that before the impugned order, the persons appointed on the said categories have to undergo training for one year and during that period, they will be paid consolidated wages of Rs.500/- per month. However, at the time of establishment of North Madras Thermal Power Project, the Board has acquired vast lands in the villages for expediting the project, and therefore it has agreed to provide employment assistance relaxing the norms prescribed. It is further brought to our notice that on the understanding reached, the Board issued orders in B.P (F.B) No. 3 dated 25-01-1990, according to which, besides other conditions, one male member in each family be appointed as Helper (Trainee) for a period of three years on a consolidated wage of Rs.500/- p.m. for the first year; Rs.650/- p.m. for the second year; and Rs.800/- p.m. for the third year.

8. As rightly pointed out by the learned counsel for the respondent-Board, all the Board proceedings deal with appointments on compassionate grounds only and taking note of non-availability of the vacancy, the Board re-examined the training period and issued orders in the Board proceedings dated 15-5-90, enhancing the period of 3 years as well as the rate of increased wages for every subsequent years to all the cases covered in B.P.Nos. 36 and 37 dated 26-6-1989 and B.P.No. 362 dated 11-7-1989. It is

also relevant to note the information furnished in the counter affidavit that it has been decided that the dependants of the deceased employees and members in the displaced family who have passed at least VIII Standard, have to be engaged as Office Helper (Trainees) and Helper (Trainees) and that the qualification prescribed for the post of Helper is possession of National Trade Certificate/National Apprenticeship Certificate in certain trades. The dependants who do not possess the prescribed qualification are not eligible to be appointed as Helper. In those circumstances, the Board had taken a policy decision that in view of acute financial crisis, the vacancies in the post of Office Helper which have low priority should not be filled up pending review of sanctions. It is also brought to our notice that the report of the Comptroller and Auditor General of India which points out that as per the planning commission Standards 5.5 employees are needed for sale of 1 million units, whereas the actual men-in-position per million units sold in the Board worked out to 8.69, 7.77 and 7.64 during the 3 years upto 1986-87 respectively and thus the extra employee cost on account of surplus man power was 130.85 crores (approximately) during these three years period. In such circumstances, it is explained that as the employment assistance is subject to availability of vacancies, and in such a contingency, the Board would have denied employment assistance and instead, on compassionate grounds, they are being appointed as Trainees on consolidated wages.

9. In the light of the details and in view of the fact that a policy decision was taken by the Board taking note of the non-availability of vacancies and also existence of more man-power than production of electricity, the Board extended the period of training for 3 years. It is also relevant to note that the Board has also increased the wages from Rs.500/- to Rs.650/- for the second year and Rs.800/- for the third year. In such circumstances, the decision of the Board cannot be faulted with. Further, inasmuch as the appointments are on compassionate grounds, considering the grievances of the displaced persons, we feel there is no question of alteration of service condition as claimed by the learned counsel for the appellant. Further, the Board itself reduced the training period from three years to one year in the subsequent proceedings in B.P (FB) No. 56 (Administrative Branch) dated 30-8-1994 and also enhanced the wages from Rs.500/- to Rs.750/-per month with effect from 01-09-1994. The learned Single Judge considered all these aspects and rightly dismissed the Writ Petition.

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10. Under these circumstances, we do not find any valid ground for interference; consequently the Appeal fails and the same is dismissed. No costs.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

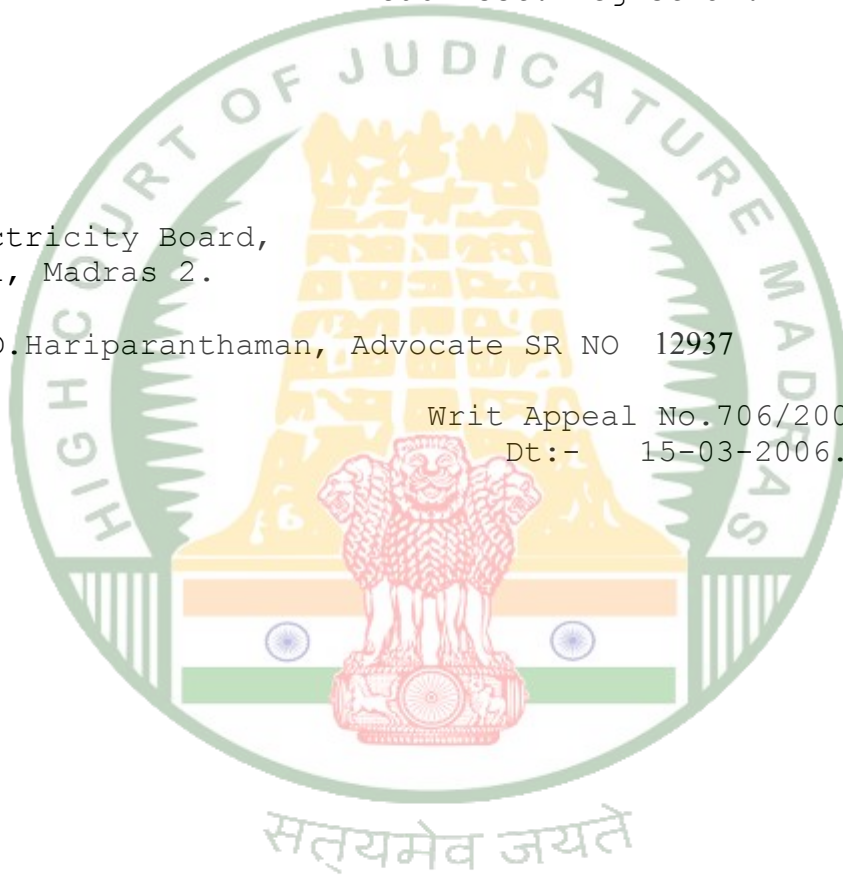
R.B.

To
The Secretary,
Tamil Nadu Electricity Board,
800, Anna Salai, Madras 2.

+ 1 CC to Mr. D.Hariparanthaman, Advocate SR NO 12937

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